UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,518	02/05/2004	Robert E. Dye	5150-36605	5410

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EXAMINER
CHEN, QING

ART UNIT	PAPER NUMBER
2191	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/772,518	DYE ET AL.
	Examiner	Art Unit
	Qing Chen	2191

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>06 July 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>See Continuation Sheet</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>59-104</u>.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   <u>See Continuation Sheet</u>.

12. ☐ Note the attached Information *Disclosure* Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☒ Other: <u>Applicant's reply has overcome the objection to Claim 98</u>.

   /Wei Y Zhen/
   Supervisory Patent Examiner, Art Unit 2191

Continuation of 5. Applicant's reply has overcome the following rejection(s): 35 U.S.C. § 112, second paragraph, rejections of Claims 94, 97, and 101.

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding the Applicant's arguments on page 18 to page 26 of the "Remarks" pertaining to the rejections of the claims made under 35 U.S.C. § 103(a), the Applicant first asserts that the cited prior art does not disclose "send information regarding the block diagram of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the block diagram is useable by the client computer system to display the block diagram on the client computer system." Applicant also asserts that the cited prior art does not disclose "send information describing a user interface of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the user interface is useable by the client computer system to display the user interface on the client computer system." Applicant also asserts that the cited prior art does not disclose "receive information regarding the block diagram of the graphical program from the server computer over the network" nor "display the block diagram at the first computer based on the information regarding the block diagram." Applicant also asserts that the cited prior art does not disclose "provide information indicating a plurality of graphical programs to the client computer system over the network, wherein the information indicating a plurality of graphical programs is usable by the client computer system to display information indicating the plurality of graphical programs; wherein, in indicating the graphical program for execution, the user input selects the graphical program from the plurality of graphical programs." Applicant also asserts that the cited prior art does not disclose "send information regarding the block diagram of the graphical program over the network to each of the plurality of client computer systems after establishing the network connection with each of the plurality of client computer systems, wherein the information regarding the block diagram is useable by each of the plurality of client computer systems to display the block diagram." Lastly, the Applicant also asserts that the cited prior art does not disclose "receive user input specifying an edit to the block diagram from the client computer system over the network; and edit the block diagram according to the user input specifying the edit." Applicant's arguments are fully considered, but found to be not persuasive for at least the following reasons:

First, with respect to the Applicant's assertions that the cited prior art does not disclose "send information regarding the block diagram of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the block diagram is useable by the client computer system to display the block diagram on the client computer system" and "send information describing a user interface of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the user interface is useable by the client computer system to display the user interface on the client computer system," as previously pointed out in the Non-Final Rejection (mailed on 12/31/2008) and the Final Rejection (mailed on 06/04/2009) and further clarified hereinafter, the Examiner respectfully submits that the combination of Huntsman and Kodosky clearly discloses "send[ing] information regarding the block diagram of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the block diagram is useable by the client computer system to display the block diagram on the client computer system" and "send[ing] information describing a user interface of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the user interface is useable by the client computer system to display the user interface on the client computer system." In the Office actions, the Examiner acknowledges that Huntsman does not disclose a graphical program including a block diagram as defined in the claims. Instead, Huntsman only discloses a Microsoft Windows® or other GUI-based programs running on a first computer to be remotely controlled by a second computer (see Abstract; Column 8: 20-23). Huntsman also discloses that GUI-based environments (i.e., GUI-based operating systems and GUI-based programs) are pictorial rather than text based (see Column 1: 26-36). Huntsman's invention addresses the problem of controlling GUI-based programs from a dissimilar computer (see Column 2: 56-67 to Column 3: 1-3). Note that, in column 8, lines 20-23 and column 9, lines 31-50, Huntsman discloses that the GUI-based program can be any MS-Windows program. Thus, one of ordinary skill in the art would readily comprehend that a MS-Windows program is a graphical program (e.g., icons, panels, and windows) that is manipulated by a user using a GUI (e.g., buttons and menus). An example of a MS-Windows program is Windows Explorer. As the Applicant is well aware, Windows Explorer is a file manager program that provides a GUI for accessing the file systems. The file systems are represented by various folder icons and file icons in a window view. As can be seen, a MS-Windows program, such as Windows Explorer, is a graphical program with a GUI. Further note that REMOTE.HTM contains HTML references for both GUI features and graphical program features of the executing GUI-based program represented by the GIF file. The GIF file is a color image of the executing GUI-based program and displayed as a clickable image. Thus, one of ordinary skill in the art would also readily comprehend that the GIF file represents the GUI features and the graphical program features of the executing GUI-based program. Hence, contrary to the Applicant's contention, Huntsman clearly discloses sending both GUI information and graphical information of a GUI-based program to a client computer. In the Office actions, the Examiner relied upon Kodosky for its specific teaching of information regarding a block diagram of a graphical program. Thus, in view of the teaching of Kodosky and the teaching of Huntsman and the state of the art, one of ordinary skill in the art would be motivated to modify Huntsman's MS-Windows program as a block diagram of a graphical program of a virtual instrument in order to allow the block diagram of the graphical program of the virtual instrument to be remotely controlled by a user so that the user can have access to the block diagram information executing on another computer in a different part of the world (see Huntsman - Column 1: 10-20).

Second, with respect to the Applicant's assertion that the cited prior art does not disclose "receive information regarding the block diagram of the graphical program from the server computer over the network" nor "display the block diagram at the first computer based on the information regarding the block diagram," the Examiner respectfully submits that the Examiner has addressed the Applicant's argument in the first reason hereinabove.

Third, with respect to the Applicant's assertion that the cited prior art   does not disclose "provide information indicating a plurality of

graphical programs to the client computer system over the network, wherein the information indicating a plurality of graphical programs is usable by the client computer system to display information indicating the plurality of graphical programs; wherein, in indicating the graphical program for execution, the user input selects the graphical program from the plurality of graphical programs," as previously pointed out in the Non-Final Rejection (mailed on 12/31/2008) and the Final Rejection (mailed on 06/04/2009) and further clarified hereinafter, the Examiner respectfully submits that Huntsman clearly discloses "provid[ing] information indicating a plurality of graphical programs to the client computer system over the network, wherein the information indicating a plurality of graphical programs is usable by the client computer system to display information indicating the plurality of graphical programs" (see Column 8: 20-23, "The executing GUI program 23 can be any MS-Windows program including the program manager, and is generally whatever program is in the foreground of the first computer 19."). Note that as discussed in the first reason hereinabove, REMOTE.HTM contains HTML references for the executing GUI-based program represented by a GIF file. The executing GUI-based program can be any MS-Windows program and is generally whatever program in the foreground of the first computer. Thus, one of ordinary skill in the art would readily comprehend that there are other GUI-based programs (plurality of graphical programs) in the background of the first computer which the use can select from in order to be controlled. Huntsman also discloses "wherein, in indicating the graphical program for execution, the user input selects the graphical program from the plurality of graphical programs" (see Column 9: 47-50, "The user in this embodiment will see a screen virtually identical to the GUI screen on the first computer. The user may then click on a menu, button, or other Windows control image."). Note that the user may control the GUI screen of the first computer to select a GUI-based program, either in the foreground or background, to control.

Fourth, with respect to the Applicant's assertion that the cited prior art does not disclose "send information regarding the block diagram of the graphical program over the network to each of the plurality of client computer systems after establishing the network connection with each of the plurality of client computer systems, wherein the information regarding the block diagram is useable by each of the plurality of client computer systems to display the block diagram," the Examiner respectfully submits that the Examiner has addressed the Applicant's argument in the first reason hereinabove.

Fifth, with respect to the Applicant's assertion that the cited prior art does not disclose "receive user input specifying an edit to the block diagram from the client computer system over the network; and edit the block diagram according to the user input specifying the edit," as previously pointed out in the Non-Final Rejection (mailed on 12/31/2008) and the Final Rejection (mailed on 06/04/2009) and further clarified hereinafter, the Examiner respectfully submits that Huntsman clearly discloses "receiv[ing] user input specifying an edit to the graphical program from the client software over the network" (see Column 9: 49-57, "The user may then click on a menu, button, or other Windows control image. The WWW browser, in accordance with HTML/HTTP protocol [9,6,7], will determine the coordinates pointed to be the mouse. The coordinates will be sent to the URL associated with the region in the map file, which will contain the address of the first computer. In addition to the coordinates, the HTML mode variables defined by the coordinated naming convention 5 will also be transmitted as the result of a click.") and "edit[ing] the graphical program according to the user input specifying the edit" (see Column 9: 61-67 to Column 10: 1-6, "The server control program 21 on the first computer 19 converts the HTML URL selection to GUI control commands using the hypertext-to-GUI-response means 7, and interpret the associated filename as a selection for the corresponding control according to the coordinated naming convention 5, and programmatically select the control or perform other action as request by the MODE and KEYTEXT variables using the programmatic-GUI-control-execution means 13 of the hypertext-to-GUI-response means 7."). Note that the coordinates pointed to by the mouse indicate a region of the GUI-based program (e.g., an icon) that the user is interested in making a change to the GUI-based program (edit to the graphical program). However, Huntsman does not disclose specifying an edit to the block diagram of the graphical program. Examiner relied upon Kodosky for its specific teaching of specifying an edit to a block diagram of a graphical program (see Column 18: 47-51, "FIG. 25 shows the EDIT menu selections ... CLEAR is useful for removing items from the active window, e.g., selected wires and structures from the block diagram window, or controls from the front panel window."). Thus, in view of the teaching of Kodosky and the teaching of Huntsman and the state of the art, one of ordinary skill in the art would be motivated to modify Huntsman's MS-Windows program as a block diagram of a graphical program of a virtual instrument in order to allow the block diagram of the graphical program of the virtual instrument to be remotely edited by a user so that the user can make changes to the block diagram information executing on another computer at another part of the world (see Huntsman - Column 1: 10-20).

Therefore, for at least the reasons set forth above, the rejections made under 35 U.S.C. § 103(a) with respect to Claims 59, 60, 65, 69, 73, 81, 82, 96, and 104 are proper and therefore, maintained.